

as such, in which judgments or decrees may be rendered for or against them, and in proceedings by or against persons incompetent to testify by reason of mental disability, no party to the cause shall be allowed to testify as to any transaction had with, or statement made by the testator, intestate, ancestor or party so incompetent to testify, either personally or through an agent since dead, lunatic or insane, unless called to testify by the opposite party, or unless the testimony of such testator, intestate, ancestor or party incompetent to testify shall have already given in evidence, concerning the same transaction or statement, in the same cause, on his or her own behalf or on behalf of his or her representative in interest; nor shall it be competent, in any case, for any party to the cause who has been examined therein as a witness, to corroborate his testimony when impeached by proof of his own declaration or statement made to third persons out of the presence and hearing of the adverse party; provided, however, this Act shall not apply to pending cases nor in anywise affect the present rights of litigants therein.

Defining who shall testify in certain proceedings.

Present rights of litigants.

Approved April 12, 1904.

CHAPTER 662.

AN ACT to re-enact with amendments Section 87, Article 5, of the Code of Public General Laws of the State of Maryland, title "Appeals from Justices of the Peace."

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That Section 87, Article 5, of the Code of Public General Laws of the State of Maryland be repealed and re-enacted to read as follows:

87. If the summons shall be returned "summoned," and the papers shall have been filed ten days previous to the commencement of the then next term of the court, the case shall stand for trial at the first term, but if the papers are not filed within that time the case shall not stand for trial until the second term, and if, when said case is called for trial, the appellant is not ready to prosecute his appeal, the court, instead of hearing said case *de novo*, shall affirm the judgment of the justice of the peace, with costs against the appellant, and if there be cross appeals, the court shall affirm the judgment of the magistrate, as against the defendant side of the case below where the defendant appealed, and is not in court ready for trial when said appeal is called for hearing; provided, the party appealing shall dismiss his appeal, and if he does not, the court shall proceed to hear said cross appeals *de novo*.

Relating to the issue of summons and cases for trial.